

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00919R

Parcel No. 312/00612-393-203

Theodore Pearson II,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2015. Theodore Pearson II was self-represented and requested a written appeal. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

Pearson is the owner of a residential, two-story home located at 3614 82nd Street, Urbandale. It was built in 2000 and has 2660 square feet of above-grade finish; a full, walkout basement with 800 square feet of living-quarter quality finish; an open front porch; a deck; and a two-car attached garage. The site is 0.267 acres.

The property's January 1, 2015, assessment was \$301,400, allocated as \$65,200 in land value and \$236,200 in improvement value. Pearson's protest to the Board of Review claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), and asserted the correct fair market value was \$256,000. While Pearson wrote in other areas of the petition, it is clear his claim was that the property was over assessed. The Board of Review reduced the assessment to \$297,000, allocated as \$65,200 in land value and \$231,800 in improvement value. Pearson then appealed to PAAB.

Findings of Fact

Pearson submitted an appraisal report prepared by Josh Shillak of Forsythe Appraisals, LLC, Des Moines, Iowa. Shillak developed the sales comparison and cost approaches in arriving at his opinion of a fair market value. Shillak opines the property's value at \$256,000, as of July 2, 2015.

Shillak noted the subject's sale was an arm's length transaction. (Appraisal p. 1). Shillak selected six comparable properties for his sales comparison analysis, which are summarized in the following chart. Shillak noted he expanded the age range of the properties and the search area to over one mile because of limited sales data in the subject's "pocket subdivision." (Appraisal Addendum p. 2).

	Date of Sale	Sale Price	Site Size (Acres)	Gross Living Area (GLA)	SP/SF	Adjusted Sale Price	Adjusted SP/SF
Subject	Jun-14	\$255,500	0.267	2646	\$96.56	\$256,000	\$ 96.75
3614 81st St	Nov-13	\$269,000	0.258	2138	\$125.82	\$266,200	\$124.51
9221 Madison Ave	May-14	\$253,000	0.238	2167	\$116.75	\$255,475	\$117.89
3616 80th St	May-14	\$234,900	0.330	2274	\$103.30	\$256,200	\$112.66
9613 Iltis Dr	Feb-14	\$280,000	0.246	2871	\$97.53	\$269,665	\$ 93.93
3504 82nd St	Oct-13	\$286,450	0.296	2276	\$125.86	\$261,200	\$114.76
3605 80th St	Listing	\$300,000	0.313	2146	\$139.79	\$268,500	\$125.12

We find the sales Shillak selected are reasonably comparable to the subject in terms of location, size, and quality/condition. The sales bracket the gross living area (GLA) of the subject property, and the sales prices bracket his opinion of market value. Shillak made minimal adjustments to the comparables; the closed sales all required less than 15.3% net and gross adjustments.

Additionally, we note Shillak's Sale 3, 3616 80th Street, is nearly identical to the subject property with the exception of GLA and basement finish. The following chart compares these properties.

	Subject		3616 80th St	Adjustments
Sale Price	\$255,500		\$234,900	\$234,900
Date of Sale	Jul-14		May-14	\$0
Site Size	0.267		0.330	\$0
Age	14		16	\$0
GLA	2646		2274	\$9,300
Basement Finish	800 Fin		None	
Garage	2 Att		2 Att	\$0
Amenities	Deck/Patio/FP		Deck/Porch/FP	\$0
				\$244,200

After adjusting 3616 80th Street for differences in GLA compared to the subject property, its indicated sale price is \$244,200, with the only remaining measurable difference between the two properties being the basement finish. This indicates a market reaction of \$11,300 (\$255,500 - \$244,200) to the basement finish; or roughly \$14 per-square-foot. The market evidence supports Shillak's \$12,000 adjustment for the contributory value of this amenity.

Shillak also developed the cost approach, concluding an opinion of \$258,600; however, he gave it no consideration in his final opinion of market value.

The Board of Review is critical of Shillak's appraisal and asserts it undervalues the subject property, in part because the subject is one of the larger homes in the area and because it sold after only six days on the market (DOM). The Board cites a July 2015 *Des Moines Register* article that asserts the average DOM in June 2015 was 66 days. (Ex. B). First, we note the five closed sales Shillak used range from 2 to 162 DOM, with an average of 82 and a median of 67. Although the subject's DOM is at the lower end, without further analysis we find no evidence to suggest this influenced the subject's sale price. Moreover, an average DOM does not dictate whether a particular sale is an arm's length transaction.

The Board of Review relied on an Appraiser Analysis, that asserts the condition of the subject should be "above normal" due to updates to the subject property. Shillak also identified the subject improvements to be in "above average overall condition." (Appraisal p. 1). The Appraiser Analysis includes four adjusted comparable properties summarized in the following table.

	Date of Sale	Sale Price	Site Size (Acres)	Gross Living Area (GLA)	SP/SF	Adjusted Sale Price	Adjusted SP/SF
Subject	Jun-14	\$255,500	0.267	2660	\$96.05	\$342,600	\$128.80
3614 81st St	Nov-13	\$269,000	0.258	2138	\$125.82	\$332,700	\$155.61
3616 80th St	May-14	\$234,900	0.330	2274	\$103.30	\$329,900	\$145.07
3605 80th St	Aug-14	\$288,000	0.313	2146	\$134.20	\$362,700	\$169.01
3609 80th St	Nov-14	\$300,000	0.294	2197	\$136.55	\$343,100	\$156.17

All of the properties the Board of Review relies on required across the board, upward adjustments, and none had a GLA larger than the subject property. Three of the properties were also in Shillak's appraisal – 3614 81st Street, 3616 80th Street, and 3605 80th Street. Shillak's appraisal included 3605 80th Street as an active listing; it later sold in August 2014 for \$288,000. The following chart compares these three properties and the differences in their adjusted values as determined by the Board and Shillak.

	Date of Sale	Sale Price	Shillak's Adjusted Value	Board's Adjusted Value
Subject	Jun-14	\$255,500	\$256,000	\$342,600
3614 81st St	Nov-13	\$269,000	\$266,200	\$332,700
3616 80th St	May-14	\$234,900	\$256,200	\$329,900
3605 80th St	Aug-14	\$288,000	\$268,500	\$362,700

Shillak provided explanations for his adjustments and conclusions. He did not make adjustments for site differences in excess of 3000 square feet; for age differences less than ten years; for differences in GLA or basement finish with less than 100 square-foot of difference; and he adjusted the properties for quality based on the custom features and amenities of the comparable properties compared to the subject. (Appraisal Addendum p. 3). Shillak also explained he based his adjustments on paired sales analysis.

The Appraiser Analysis did not provide any explanation for the adjustments, which appear to be based on cost. For instance, it adjusts the subject's 800 square feet of living-quality finish basement at \$25,100 or \$31.38 per-square-foot.

Further, the Board of Review asserts the subject's sale price per-square-foot of \$96.56 is lower than Shillak's comparable properties. Because of this, the Board believes the appraisal is not a good indication of market value and that for some reason the property sold low. (Ex. B). The five closed sales in Shillak's appraisal had a sales price per-square-foot ranging from \$97.53 to \$125.86. Although below this range, we do not find the subject's sale price per-square-foot, alone, is indicative of a distressed sale.

The Board submitted a list of all two-story properties located in Urbandale with GLA greater than 2500 square feet that have sold since January 1, 2014, including 2015 sales. (Ex. A). We do not consider the sales after the assessment date to be as persuasive as the sales preceding it; however, we will analyze the list in its entirety. The Board of Review asserts the median sales price-per-square-foot of \$123.20 suggests the subject sold below market for some unidentified reason. (Ex. B). We note that with the exception of two properties, all of the sales on the Board of Review's list that are larger than the subject property also have superior grades, which would skew the results. Moreover, the properties are unadjusted for differences and there is insufficient information for PAAB to determine if the properties on the Board's list are similar in location, condition, or other amenities such as basement finish or garage space. We, therefore, give this evidence no consideration.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-

b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Shillak's appraisal values the subject property at \$256,000 in July 2014. Shillak included five closed sales and an active listing. All of the sales offer similar style, size, location, and general amenities. Although the Board of Review was critical of the appraisal, we find the criticism to be weak and unsupported for reasons previously discussed. Moreover, in *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996), the Iowa Supreme Court noted, "[i]t is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction [...] is to be considered in arriving at market value but does not conclusively establish that value.

Considering the record as a whole, we find Shillak's appraisal to be the best evidence in the record and that it support's Pearson's claim that the property is over

assessed. We, therefore, determine the fair market value of the subject property is \$256,000.

Order

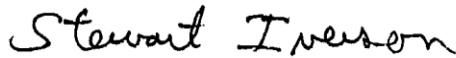
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is modified to \$256,000.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

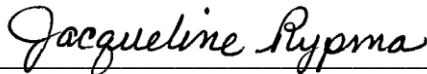
Dated this 18th day of February, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:
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Christina Gonzalez
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